

### REMARKS

This amendment responds to the office action mailed December 5, 2005. In the Office Action the Examiner:

- rejected claims 15-19 under 35 U.S.C. 102(b) as anticipated by Lanziner (EP 0 325 539 A1);
- rejected claim 20 under 35 U.S.C. 103(a) as being unpatentable over Lanziner (EP 0 325 539 A1) in view of Link et al. (US 5,572,427);
- rejected claims 21-22 and 28 under 35 U.S.C. 103(a) as being unpatentable over Lanziner (EP 0 325 529 A1) in view of Fukae et al. (EP 0 961 134 A1);
- rejected claims 23 and 26-27 under 35 U.S.C. 103(a) as being unpatentable over Lanziner (EP 0325 539 A1) in view of Fukae et al. (EP 0 961 134 A1) and Holt (US 6,608,593);
- rejected claim 25 under 35 U.S.C. 103(a) as being unpatentable over Lanziner (EP 0 325 539 A1) in view of Fukae et al. (EP 0 961 134 A1) and Holt (US 6,608,593) as applied to claim 23, and further in view of Lamensdorf et al. (US 20040008153A1);
- and objected to claim 24 as being dependent on a rejected claim.

After entry of this amendment, the pending claims are: claims 15-28.

#### *Overview of Changes to Claims*

Claim 15 has been amended to clarify that the landmark cross-section has substantially isotropic reflecting properties:

wherein a cross-section of the landmark has substantially isotropic reflecting properties with respect to azimuth angles in a plane containing the landmark and the device.

Support is found in the specification in paragraphs 34 and 38. This amendment, therefore, does not constitute new matter.

#### *Detailed Response 35 U.S.C. 102(b)*

In the present Office Action the Examiner has rejected pending claims 15-19 as anticipated Lanziner. The Applicants disagree and traverse.

After entry of the present reply, independent claim 15 has been amended to clarify the meaning of the term “isotropic” in the claim. In particular, the landmark has a cross-section with substantially isotropic reflecting properties for azimuth angles in a plane containing the landmark and the device. Thus, the reflections from the landmark are substantially **spatially** isotropic in the plane. As evidenced in the present Office Action (p. 7, lines 12-15), the Examiner appears to have interpreted “isotropic” to refer to a property of light as opposed to the cross-section of the landmark. The Applicants believe that the clarification provided by the present claims amendment removes any confusion that may have occurred regarding the meaning of “isotropic.”

The Applicants note that antennas, such as those illustrated in Figs. 1, 2-4, and 6-8 in Lanziner do not, without special design such as that disclosed in the present application, have substantially isotropic cross-sections. In the present Office Action (p. 7, lines 12-15), the Examiner has conceded that Lanziner does not mention that the landmark used is anisotropic. While Lanziner indicates that some reflectors have a “broad beam angle” (col. 5, lines 8-10) and the cluster of reflectors in the tower shown in Fig. 8 are described as expanding “the relatively narrow beam pattern of the individual reflectors in azimuth” (col. 6, lines 6-12), Lanzier does not teach or disclose that the landmark used is substantially isotropic. Indeed, Lanzier is concerned with the vertical beam pattern, as opposed to the horizontal or azimuthal pattern (col. 6, lines 22-25). The Examiner’s use of Lanziner to achieve this claim limitation appears, therefore, to rely on inherency.

MPEP 2112.IV indicates that “the fact that a certain result of characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result of characteristic ... To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” (2100-57).

In light of the preceding arguments, Lanziner does not provide a basis in fact and/or technical reasoning that it inherently teaches or disclosed a landmark having a substantially isotropic cross-section in the azimuth plane. Since Lanziner does not teach or disclose each of the claim limitations, Lanziner does not anticipate this claim. And since dependent claims

16-19 include the limitations of their parent claim, Lanziner does not anticipate these claims, either. Removal of this ground for rejection is requested.

*Detailed Response 35 U.S.C. 103(a)*

In the present Office Action the Examiner has rejected pending claim 20 as anticipated Lanziner in view of Link. The Applicants disagree and traverse.

As explained above, Lanziner does not teach or disclose a landmark having an isotropic cross-section, as required by independent claim 15. Dependent claim 20 has the same limitation. Link also does not teach or disclose this limitation. Since the cited combination does not achieve all of the claim limitations, it is not *prima facie* obvious. Removal of this ground for rejection is requested.

In the present Office Action the Examiner has rejected pending claims 21-22 and 28 as anticipated Lanziner in view of Fukae. The Applicants disagree and traverse.

As explained above, Lanziner does not teach or disclose the isotropic cross-section limitation of independent claim 15, and therefore, of dependent claims 21-22 and 28. Fukae also does not teach or disclose this limitation. Since the cited combination does not achieve all of the claim limitations, it is not *prima facie* obvious. Removal of this ground for rejection is requested.

In the present Office Action the Examiner has rejected pending claims 23 and 26-27 as anticipated Lanziner in view of Fukae and Holt. The Applicants disagree and traverse.

As explained above, Lanziner does not teach or disclose the isotropic cross-section limitation of independent claim 15, and therefore, of dependent claims 23 and 26-27. Neither Fukae nor Holt teaches or discloses this limitation. Since the cited combination does not achieve all of the claim limitations, it is not *prima facie* obvious. Removal of this ground for rejection is requested.

In the present Office Action the Examiner has rejected pending claim 25 as anticipated Lanziner in view of Fukae and Holt and Lamensdorf. The Applicants disagree and traverse.

As explained above, Lanziner does not teach or disclose the isotropic cross-section limitation of independent claim 15, and therefore, of dependent claim 25. Neither Fukae, Holt nor Lamensdorf teaches or discloses this limitation. Since the cited combination does not achieve all of the claim limitations, it is not *prima facie* obvious. Removal of this ground for rejection is requested.

The Applicants note that the Examiner has used several combinations of different references in an attempt to achieve the limitations of the pending claims. The Applicants note that the Examiner has not provided either explicit or implicit teachings or suggestions in the prior art cited in the combinations or in the knowledge generally available to one of ordinary skill in the art that motivated these combinations. In the present Office Action, the Examiner alludes to the latter (p. 8, lines 4-6), but has not provided any evidence to substantiate this assertion. The Examiner appears, therefore, to be taking official notice of such motivations. The Applicants herewith request that Examiner provide substantiating evidence. In the absence of such evidence, it would appear that the Examiner has used impermissible hindsight as the motivation for these combinations. And in the absence of motivations, the combinations are not *prima facie* obvious. Removal of these grounds for rejection is requested.

#### CONCLUSION

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (650) 843-7501, if a telephone call could help resolve any remaining items.

Date:

2/17/06

Respectfully submitted,



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